

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MAGDA EISENBERG,

Plaintiff,

-against-

NEW ENGLAND MOTOR FREIGHT, INC.&  
ANDRE HEMRAJ,

**DECLARATION**

Civil Action File No.:  
08CV1469

Defendants.

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Raphael Weitzman, an attorney at law, duly admitted to practice law before the Courts of the State of New York, and a member of **WEITZMAN LAW OFFICES, L.L.C.**, attorney for Plaintiff herein, declares the following to be true under the penalties of perjury.

Your declarant, fully familiar with the facts and circumstances surrounding the within issues, submits this declaration in support of the within application for an Order Remanding this action, pursuant to Section 1447(c) & (e) of Title 28 of the United States Code, against Defendants **NEW ENGLAND MOTOR FREIGHT, INC. AND ANDRE HEMRAJ** awarding costs, attorneys' fees and sanctions to Plaintiff's attorneys, and for such other and further relief as to this Court seems just and proper.

The within action was brought on behalf of Plaintiff, and involves a claim for the grievous and permanent personal injuries suffered by the Plaintiff as a result of an accident which occurred on October 22, 2007 at about 2.15 p.m., when she was a lawful pedestrian at Second Avenue at its intersection with East 60th Street in the County, City and State of New York and was struck by

Defendant, **NEW ENGLAND MOTOR FREIGHT, INC.**'s vehicle operated by the co-defendant **ANDRE HEMRAJ**. Annexed hereto and made a part hereof as *Exhibit "A"* is a copy of Plaintiff's Summons and Verified Complaint. The Summons and Verified Complaint were duly served on numerous occasions on Defendants **NEW ENGLAND MOTOR FREIGHT, INC.** and **ANDRE HEMRAJ**. Copies of the Affidavits of Service thereof are annexed hereto as *Exhibit "B"*.

It is respectfully requested that in addition to the specific relief sought herein, that costs, attorneys' fees and sanctions be awarded to Plaintiff's attorneys, to be paid by Defendant due to cavalier disregard exhibited herein, including the necessity of the within application, in the event this Court sees fit to remand this action at this time.

Defendant NEW ENGLAND MOTOR FREIGHT, INC. is a New Jersey Corporation foreign licensed and registered with the Secretary of the State of New York, Division of Corporations (Exhibit C).

Defendant NEW ENGLAND MOTOR FREIGHT, INC. has offices in the State of New York.

Defendant NEW ENGLAND MOTOR FREIGHT, INC. solicits and conducts business in the State of New York.

Defendant NEW ENGLAND MOTOR FREIGHT, INC. derives revenue in the State of New York.

Defendant ANDRE HEMRAJ performs business in the State of New York.

A witness to the foregoing incident, Anjela Mejia and others who have not yet been identified, were traffic agents for New York City Police Department who were present at the time of

incident. Said witnesses have not been co-operative in providing statements concerning the incident.

Furthermore, said witnesses may have contributed to the incident.

The New York City Police Department is an agency under the City of New York.

Defendant CITY OF NEW YORK is a Domestic Municipal Corporation in the State of New York.

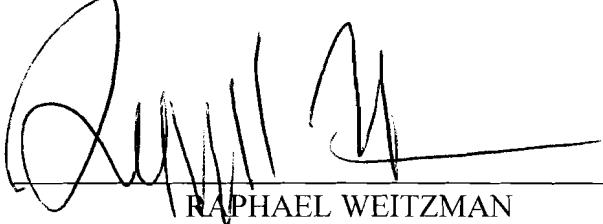
Plaintiff intends to make a motion for leave to file a Notice of Claim and also to Amend the pleadings to add the City of New York to the current action.

Defendants' contentions in their removal are mistaken at best.

No previous application for the relief sought herein has been made to this or any other Court.

**WHEREFORE**, it is respectfully requested that an Order be entered, pursuant to Section 1447(e) of Title 28 of the U.S.C, remanding the within action herein, awarding costs, attorneys' fees and sanctions to Plaintiff's attorneys, and for such other and further relief as to this Court seems just and proper.

Dated:           New York, New York  
                  March 3, 2008

  
RAPHAEL WEITZMAN